

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TOMMY SHARP,

Plaintiff,

v.

CV No. 21-719 KWR/CG

JOE BIDEN,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on Plaintiff Tommy Sharp's handwritten *pro se* complaint, (Doc. 1), filed August 2, 2021. Mr. Sharp, who is in federal, pretrial custody at the Cibola County Correctional Center, alleges in his complaint that "Defendant is a fraud, fake President who has overthrown the government of the United States." *Id.* at 1, 5. Mr. Sharpe seeks the immediate arrest and removal from office of Defendant, seizure of all Defendant's assets, and transfer of all Defendant's assets to Plaintiff. *Id.* at 2. The Court finds the complaint is deficient because it is not in proper form and he has not paid the \$402.00 filing fee or otherwise filed an Application to Proceed in District Court Without Prepaying Fees or Costs.

First, although he does not expressly allege violation of any constitutional right, Mr. Sharp's filing may possibly be an attempt to assert prisoner civil rights claims under 42 U.S.C. § 1983. A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under 42 U.S.C. § 1983). Mr. Sharp's filing is thus not in the proper form to assert a civil rights claim.

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from Mr. Sharp or authorize Mr. Sharp to proceed without prepayment of the fee. Mr. Sharp has not paid the \$402.00 filing fee or submitted an application to proceed under § 1915.

Mr. Sharp must cure this deficiency within thirty (30) days from entry of this Order.

On July 29, 2021, the Clerk of the Court mailed to Mr. Sharp (1) an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions. Mr. Sharp must include the civil action number, CV 21-00719 KWR/CG on all papers he files in this proceeding. If Mr. Sharp fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS THEREFORE ORDERED that by **September 3, 2021**, Mr. Sharp cure these deficiencies by (1) paying the \$402.00 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs (including the required 6-month inmate account statement); and (2) filing a prisoner civil rights complaint in proper form.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE